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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH : JODHPUR

Date of order : 20.04.2001

1. O.A. No. 81/1998
with
2. M.A. No. 49/2000

Baij Nath son of late Shri Badri Prasad , Ex-Waterman, under the respondent No.2, aged about 19 years, resident of village Tiausli, Post Office Jamunia, District, Jampur.

... Applicant.

1. Union of India through the General Manager, Northern Railway, H.Q. Office, Baroda House, New Delhi.
2. The Divisional Railway Manager, Northern Railway, Bikaner Division, Bikaner.
3. The Manager, State Bank of India, Malhani Bazar, District Jaunpur.

... Respondents.



Mr. Y.K. Sharma, Counsel for the applicant.

Mr. S.S. Vyas, Counsel for the respondents.

CORAM:

Hon'ble Mr. Justice B.S. Raikote, Vice Chairman

Hon'ble Mr. Gopal Singh, Administrative Member

: O R D E R :

(Per Hon'ble Mr. Justice B.S. Raikote)

This application is filed challenging the show cause notice dated 2.12.1997 (Annexure A/1), contending that the applicant in fact, is the son of the late Badri Prasad, who died on 12.04.90, and the impugned show cause notice alleging that the applicant is not the son of late Shri Badri Prasad, and accordingly, he was not entitled to family pension etc., is not correct. Therefore, the impugned show cause notice is liable to be set aside.

(Signature)

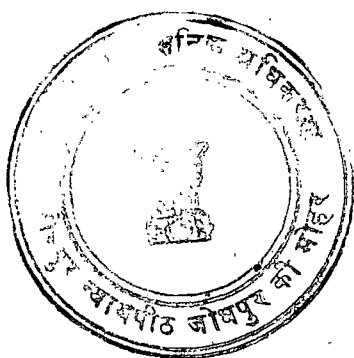
2. The respondents by filing reply, have denied the case of the applicant and contended that the applicant is not the son of late Shri Badri Prasad, and he was the son of Shri Kedar Nath, who misrepresented and acted as 'uncle' and 'guardian' of the applicant for the purpose of getting pensionary benefits to his son. They contended that the applicant has misrepresented and played fraud on the department, and has been receiving family pension as if the son of late Shri Badri Prasad. When the applicant applied for compassionate appointment, an enquiry was held as to see whether he was entitled to appointment on compassionate grounds, and during such enquiry, it was revealed that the applicant was, in fact, was not the son of late Shri Badri Prasad, who died while serving as Waterman at Wanderjatana Station, Bikaner Division, Northern Railway. In these circumstances, the impugned show cause notice vide Annexure A/1 was issued to him, and as such, there are no merits in the application.



3. Both the learned counsel heavily relied upon number of documents in support of their contentions. But the fact remains that the applicant has challenged only the show cause notice vide Annexure A/1 dated 2.12.97, and if the applicant were to file the reply within 15 days to the said show cause notice, perhaps the department would have considered the case of the applicant, and passed an appropriate order. But the applicant has rushed to this Tribunal directly against the said show cause notice (Annexure A/1) without filing any reply to the department. The contentions urged on both the sides are the matters to be considered and decided by the department after the applicant files the reply to the said show cause notice. In this view of the matter, we find that this application is premature, and the same is liable to be dismissed on this ground only. Accordingly, we pass the order as under:-

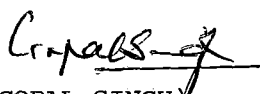
"The application is dismissed as premature, and it is now open to


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the applicant to file a reply to the show cause notice (Annexure A/1) dated 2.12.97 within 15 days from the date of receipt of a copy of this order, alongwith the documents in support of his case, and thereafter, within a period of 3 months, the respondent No. 2 shall consider the case of the applicant and pass a speaking order. If the applicant seeks personal hearing, the same may be afforded to the applicant by fixing a date. The contention of both the parties are kept open. No costs.

For the reasons recorded above, the M.A. No. 49/2000 for summoning of documents does not survive. Accordingly, M.A. also stands disposed of.


(GOPAL SINGH)
Adm. Member


(JUSTICE B.S. RAIKOTE)
Vice Chairman

cvr.

2/1/07
2/25/02

P. Con
G. 25/04/07

Part II and III destroyed
in my presence on 28.3.07
under the supervision of
Sgt. [illegible] per
order 1972/02

Sgt. [illegible] (Records)